



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,455	10/20/2000	Satoru Fujita	043034/0159	4205

22428 7590 06/08/2004

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

NGUYEN, NGA B

ART UNIT	PAPER NUMBER
----------	--------------

3628

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/692,455

Applicant(s)

FUJITA, SATORU

Examiner

Nga B. Nguyen

Art Unit

3628

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is the answer to the communication filed on October 20, 2000, which paper has been placed of record in the file.
2. Claims 1-29 are pending in this application.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 13-22, 28, and 29 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter, particularly, an abstract idea.

The claims, as presently claimed and best understood were reconsidered in light of the "Examination Guidelines for Computer-Related Inventions" and were found to be non-statutory. Discussion of the analysis of the claims under the guidelines follows.

Claims 13-22, 28, and 29 merely manipulate an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

As to claims 13-22, 28, and 29, the invention is not implemented on a specific apparatus; therefore, the invention is not directed to the technological arts. To be statutory, the utility of an invention must be within the technological arts. The definition

Art Unit: 3628

of "technology" is the "application of science and engineering to the development of machines and procedures in order to enhance or improve human conditions, or at least to improve human efficiency in some respect." (Computer Dictionary 384 (Microsoft Press, 2d ed. 1994)). When one looks to the present specification to determine what the applicant has invented, the invention appears to be a series of steps performed on a computer. It is clear that claims 13-22, 28, and 29 are intended to be directed to the abstract method apart from the apparatus for performing the method. Therefore, claims 13-22, 28, and 29 are non-statutory, because they are directed solely to an abstract idea without practical application in the technological arts.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eder, U.S. Patent No. 5,615,109.

Regarding to claim 1, Eder discloses a system for deciding a purchase item for which a purchase is made, comprising:

a data memory for storing a logical formula representing a relationship among a plurality of purchase items, a value table containing a value of each of the purchase

Art Unit: 3628

items, price information of each of the purchase items in at least one market, a total purchasing fund, and a purchasing strategy (column 31, lines 23-55, the server, personal computer 20 having a hard drive 84 for storing database table; column 39, lines 25-30 and column 40, lines 50-67; Item Master table).

a profit computation section for computing a profit obtainable when at least one purchase item arbitrary selected from the plurality of purchase items id purchase, based on the value and the price information of the at lest on purchase item (column 64, lines 15-67) ; and

a strategy computation section for determining at least one purchase item for which a purchase should be made and a gross profit obtainable from the determined at least one purchase item, wherein the strategy computation section selects a combination candidate from the plurality of purchase items based on the relationship formula, instructs the profit computation section to computer a possible profit obtainable from the selected combination candidate, and determines the at least on purchase item so as to maximize the possible profit with the total purchasing fund (columns 65-72).

Eder discloses the system for deciding a purchase item instead of for a bidding item. However, bidding is a special type of purchase in which a plurality of purchasers competes for purchasing an item, the purchaser who places a highest price will get the item, such bidding for the item is well known in the art. Therefore, it would have been obvious at the time of the invention to modify Eder's to replace a purchase item by a bidding item for the purpose of maximizing the possible profit when bidding for items.

Art Unit: 3628

Regarding to claims 2-5, Eder discloses wherein the logical formula represents any combination of a logical OR, a logical exclusive-OR, and a logical AND of the plurality of purchase items, wherein the logical OR represents a desire to maximize the possible profit within the total purchasing fund to obtain a subset of bid items from the plurality purchase items; the logical exclusive-OR represents a desire to determine a single purchase item of the plurality of purchase item so as to maximize the possible profit within the total purchasing fund, and the logical AND represents that a combinatorial value will be obtained only when a plurality of purchase items related to the logical AND are all purchased (column 84, TABLE 83).

Regarding to claim 6, Eder does not disclose wherein the strategy computation section further establishes a purchasing strategy taking into consideration a possible rise of a purchasing price of each of the purchase items due to participation of a third party to the purchasing in the future. However, such feature is well known in the art in bidding for an item. Therefore, it would have been obvious at the time of the invention to modify Eder's to include the feature above for the purpose of considering the rise of the item's price in the purchasing strategy.

Regarding to claim 7, Eder discloses an automated purchasing system comprising:

a price collection device for automatically collecting price information of a purchase item for which a purchase is made in at least on market at regular intervals (column 45, lines 35-50; obtaining the historical data for the item from the sales history table to determine the average period price for the item);

a purchase decision system as described in claim 1 above.

Eder does not disclose a bidding device performing a bid for the determined at least one bid item. However, Eder discloses a client personal computer 10 connected to the network (column 30, lines 25-30). Moreover, the user using a personal computer connected to the network such as the Internet for bidding an item is well known in the art. Therefore, it would have been obvious at the time of the invention to modify Eder's to allow the client uses the personal computer 10 as a bidding device performing a bid for the purpose of obtaining a competition between a plurality of purchasers for purchase an item in order to get highest possible price for an item.

Regarding to claim 8, Eder discloses a purchase supporting system comprising:

a market observation price device for automatically collecting price information of a purchase item for which a purchase is made in at least on market at regular intervals (columns 45-48; the software completes forecasts of item demand for the base period using the specified historical information together with the 32 different algorithm);

a purchase decision system as described in claim 1 above.

a purchase recommendation device for representing determined at least one purchase item as recommendable information reflecting price variations in the market (columns 83-84).

Regarding to claims 9-10, Eder discloses wherein the relationship formula, the value table, and the total purchasing fund are allowed to be updated with a lapse of time (column 38, lines 35-60).

Regarding to claims 11-12, Eder discloses a mobile agent, wherein, after the relationship formula, the value table, the total pursuing fund and the purchasing strategy have been input, the automated purchasing system is transferred from a user's computer to a continuously opening computer to allow periodical market observation (column 30, lines 25-37, the server personal computer 20).

Claims 13-24 contain similar limitations found in claims 1-12 above, therefore are rejected by the same rationale.

Claims 25-27 are written in computer software that parallel the limitations found in claims 13, 19, 20 above, therefore are rejected by the same rationale.

Regarding to claim 28, Eder discloses a method for deciding a purchasing item for which a bid is made, comprising the steps of:

storing a logical formula representing a logical OR of two purchase item X and Y, a value table containing values  $x_m$  and  $y_m$  of respective ones of the purchase items X and Y, present prices  $x$  and  $y$  of respective ones of the purchase items X and Y, a total purchasing fund  $T$ , and a constant  $p_1$  determined by a purchasing strategy (column 31, lines 23-55, the server, personal computer 20 having a hard drive 84 for storing database table; column 39, lines 25-30 and column 40, lines 50-67; Item Master table);

determining whether  $y < y_m$ , Condition1 is satisfied;  $y < (T + y_m - x_m)/2$ , Condition2 is satisfied;  $y - y_m < x - x_m$ , Condition3 is satisfied;  $x + y > T$ , condition5 satisfied;  $y > p_1 * x_m + y_m$ , Condition6 satisfied; determining that the purchase item Y should not be purchase in one of case where the Condition1 is no satisfied, the Condition1 is satisfied, ect...; determining that the purchase item Y should by



Art Unit: 3628

purchased in one of cases where the Conditions 1 and 2 are satisfied, where the Condition 1 is satisfied, etc... (see columns 65-72).

Eder discloses the system for deciding a purchase item instead of for a bidding item, and Eder does not disclose determining whether close of bidding for Y is earlier than that X. However, bidding is a special type of purchase in which a plurality of purchasers competes for purchasing an item, the purchaser who places a highest price will get the item, such bidding for the item is well known in the art. Moreover, it is well known in the art to determining the closing time of one bidding item. Therefore, it would have been obvious at the time of the invention to modify Eder's to replace a purchase item by a bidding item for the purpose of maximizing the possible profit when bidding for items.

Claim 29 has similar limitations found in claim 28 above, therefore, is rejected by the same rationale.

### ***Conclusion***

7. Claims 1-29 are rejected.

8. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Rackson (US 6,415,270) discloses a multiple auction coordination method and system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is

Art Unit: 3628

(703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

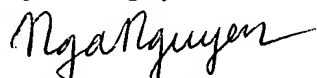
(703) 872-9326 (for formal communication intended for entry),

or

(703) 308-3691 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



March 19, 2004